

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION**

**UNITED STATES OF AMERICA**

v.

**TONY SYLVESTER HARRIS,**

Defendant.

Case No. 1:97CR00032

**OPINION**

By: James P. Jones  
United States District Judge

*Tony Sylvester Harris, Pro Se Defendant.*

On April 23, 1998, the court sentenced defendant Tony Sylvester Harris to 720 months' imprisonment (ECF No. 9), and on September 13, 2005, the court dismissed Harris' Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255. *Harris v. United States*, Nos. 7:05CV00454, 1:97-CR-00032, 2005 WL 2233546 at \*1(W.D. Va. Sept. 13, 2005), *appeal dismissed*, 169 F. App'x 801 (4th Cir. 2006) (unpublished). Nearly ten years later, Harris has filed a pro se motion captioned, "Notice of Writ of Mandamus being served on respondent: Judge Glen M. Williams," (ECF No. 19), arguing that the court should vacate the Judgment.

Because Harris presently challenges his convictions and sentences, the pending motion falls squarely within the class of motions that must be construed as a new § 2255 motion. Because Harris does not establish that the United States

Court of Appeals for the Fourth Circuit has authorized him to file a successive § 2255 motion, the construed § 2255 motion must be dismissed without prejudice as successive pursuant to 28 U.S.C. § 2255(h).

DATED: July 2, 2015

/s/ James P. Jones  
United States District Judge